

**ORDINANCE NO. 1739
SERIES 2017**

**AN ORDINANCE AMENDING CHAPTER 3.20 OF THE LOUISVILLE MUNICIPAL
CODE PERTAINING TO SALES AND USE TAX DEFINITIONS, EXEMPTIONS AND
ADMINISTRATIVE PROCEDURES AND AMENDING CHAPTER 3.22 PERTAINING
TO THE LODGING TAX**

WHEREAS, in SJR14-038, the General Assembly asked the Colorado Municipal League to revive the tax simplification project from the 1990s to address current systemic problems associated with local tax collection, and

WHEREAS, City Council has determined that the standard tax definitions project is a major collaborative sales tax simplification initiative by Colorado's home rule municipalities that locally collect their sales tax and the retail business community, and

WHEREAS, City Council has determined that the City will cooperate in furtherance of a statewide goal to have all locally collecting municipalities agree to use standard definitions in their sales and use tax codes, and

WHEREAS, City Council has determined that maintaining the local collection of sales and use taxes for the City is of paramount importance to the continued financial strength of the City; and

WHEREAS, City Council has determined that the retail business community desires better uniformity and simplicity when operating in the City; and

WHEREAS, City Council has determined that sales tax revenue is directly tied to how well the City's retail business community is faring, City Council and staff have generally supported the idea that the City should simplify the tax code, without sacrificing revenue, and

WHEREAS, City Council has determined that revenue neutral tax simplification is generally construed as good for business and good for the community as a whole, and

WHEREAS, City Council has determined that modification of the City's sales and use tax exemptions is required in an effort to comply with the Taxpayer Bill of Rights by staying revenue neutral; and

WHEREAS, City Council further recognizes that over time, and as new products, technologies and services are created, the Sales and Use Tax Code may not clearly address taxability of such products, technologies, and services and that certain aspects need to be clarified and updated; and

WHEREAS, City Council recognizes that, based on taxpayer inquiries during audits and in general, clarification of certain provisions of the Sales and Use Tax Code will clarify areas of possible confusion for taxpayers; and

WHEREAS, City Council desires to amend certain provisions of the City's Sales and Use Tax Code at Chapter 3.20 of the Louisville Municipal Code, in order to clarify certain definitions and procedures, and to efficiently clarify the taxability of certain products, technologies, and services, and

WHEREAS, City Council desires to amend portions of Chapter 3 22 to clarify portions of the City's lodging tax ordinance

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1 Sections 3.20.020, 3 20.040, 3.20.050, 3 20 060, 3 20.210, 3.20.220, 3.20.305, 3 20 310, 3 20 330, 3.20 408 and 3.20.520 of the Louisville Municipal Code are hereby repealed and reenacted, with amendments, to read as follows:

Sec. 3.20.020. - Definitions.

A When not clearly otherwise indicated by the context, the following terms, words and phrases as used in this chapter, shall have the following meanings

1. "Auction" means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof

2. "Automotive Vehicle" means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. Automotive Vehicle includes, but is not limited to, motor vehicles, trailers, semi-trailers, or mobile homes Automotive Vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

3. "Business" means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

4. "Carrier Access Services" means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services

5. "Charitable Organization" means any entity which (1) has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, and (2) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government

6. "City" means the municipality of Louisville, Colorado.

7 "Coins" means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future, or heretofore designated as a medium of exchange under the laws of this State, the United States or any foreign nation

8 "Coin Operated Device" means any device operated by coins or currency or any substitute therefor.

9 "Collection Costs" shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees

10 "Commercial Packaging Materials" means containers, labels and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit, or use and is not returnable to said person for reuse. Commercial Packaging Materials does not include Commercial Shipping Materials

11 "Commercial Shipping Materials" means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process. Commercial Shipping Materials include but are not limited to containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

12. "Community Organization" means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general welfare of the community, so long as (1) No part of the net earnings of which inures to the benefit of any private shareholder or individual, (2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and (3) Which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office

13 "Construction Equipment" means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure

14 "Construction Materials" means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including public and private improvements. Construction Materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral or inseparable part of a completed structure or project, are not construction materials.

15 "Consumer" means any person in the City who purchases, uses, stores, distributes or otherwise consumes tangible personal property or taxable services, purchased from sources inside or outside the City.

16 "Contractor" means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For purposes of this definition, Contractor also includes subcontractor.

17 "Cover Charge" means a charge paid to a club or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

18. "Digital Product" means an electronic product including, but not limited to: (1) "digital images" which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as "photographs," "logos," "cartoons," or "drawings," (2) "digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, (3) "digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For purposes of the definition of "digital audio works", "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication, and (4) "digital books" which means works that are generally recognized in the ordinary and usual sense as "books".

19. "Engaged in Business in the City" means performing or providing services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use, or consumption within the City. Engaged in Business in the City includes, but is not limited to, any one of the following activities by a person

(1) Directly, indirectly, or by a subsidiary, maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction,

(2) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;

(3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction,

(4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction, or

(5) Makes more than one delivery into the taxing jurisdiction within a twelve month period by any means other than a common carrier.

20. "Farm Closeout Sale" means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

21 "Finance Director" means the Finance Director of the City of Louisville or such other person designated by the municipality; "Finance Director" shall also include such person's designee

22 "Food For Home Consumption" means food for domestic home consumption as defined in 7 U.S.C. sec. 2012 (k)(2014), as amended, for purposes of the supplemental nutrition assistance program, or any successor program, as defined in 7 U.S.C. sec. 2012 (t), as amended, except that "food" does not include carbonated water marketed in containers, chewing gum; seeds and plants to grow foods, prepared salads and salad bars; packaged and unpackaged cold sandwiches, deli trays; and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated or coin-collecting food and snack devices on behalf of a vendor

23 "Garage Sales" means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale is being conducted. The term includes, but is not limited to, yard sales, estate sales, and block sales

24 "Gross Sales" means the total amount received in money, credit, property, or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

25 "Internet Access Services" means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of Internet Access Services

26. "Internet Subscription Service" means software programs, systems, data and applications available online through rental, lease or subscription, that provide information and services including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

27 "License" means a City of Louisville sales and/or use tax license

28. "Linen Services" means services involving the provision and cleaning of linens, including but not limited to rags, uniforms, coveralls, and diapers

29. "Lodging" means hotel rooms, apartment hotel rooms, motel rooms, lodging house rooms, motor hotel rooms, guesthouse rooms, guest ranch rooms, extended stay lodging rooms or other similar accommodations that are rented to persons for a period of less than one month or 30 consecutive days, but shall not include rentals under a written agreement for occupancy for a period of at least one month or 30 days.

30. "Machinery" means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function

31. "Manufactured Home" means any pre-constructed building unit or combination of pre-constructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle

32 "Manufacturing" means the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.

33 "Medical Marijuana" means marijuana acquired, possessed, cultivated, manufactured, delivered, transported, supplied, sold, or dispensed to a person who qualifies as a patient with a debilitating medical condition(s) under Article XVIII, Section 14, of the Colorado Constitution, and which person holds a valid "registry identification card" issued by the State of Colorado pursuant to Colorado Constitution, Article XVIII, Section 14.

34 "Medical Supplies" means

- (1) special beds for patients with neuromuscular or similar debilitating ailments, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine;
- (2) corrective eyeglass lenses, including eyeglass frames and corrective contact lenses, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine or optometry,
- (3) wheelchairs and crutches, when sold for the direct, personal use of a specific individual,
- (4) oxygen;
- (5) hemodialysis products for use by a medical patient,
- (6) hearing aids; hearing aid batteries;
- (7) insulin, insulin measuring and injecting devices, glucose to be used for treatment of insulin reactions; and
- (8) human whole blood, plasma, blood products and derivatives

35. "Mobile Machinery and Self-Propelled Construction Equipment" means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo, but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally

operated or moved over the public highways This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches

36. "Modular Home" means any structure that consists of multiple sections fabricated, formed or assembled in manufacturing facilities for installation and assembly at the building site, and is constructed to the building codes adopted by the State Division of Housing, created in Section 24-32-706, C.R.S., and is designed to be installed on a permanent foundation.

37 "Motor Fuel" means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any other liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways The term does not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives

38 "Newspaper" means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest The term "Newspaper" does not include magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books

39. "Person" means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee, or any person acting in fiduciary or representative capacity, whether appointed by a court or otherwise, or any group or combination acting as a unit

40 "Preprinted Newspaper Supplements" shall mean inserts, attachments or supplements circulated in newspapers that. (1) are primarily devoted to advertising, and (2) the distribution, insertion, or attachment of which is commonly paid for by the advertiser.

41. "Prescription Drugs for Animals" means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et seq, as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

42 "Prescription Drugs for Humans" means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect 301, et. seq, as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information

of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

43. "Price" or "Purchase Price" means the aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if: (1) Such exchanged property is to be sold thereafter in the usual course of the retailer's business, or (2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off-highway recreation vehicles, watercraft, and aircraft Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

Price or Purchase Price includes.

- (1) The amount of money received or due in cash and credits
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange
- (4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note, except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price An amount charged for insurance on the property sold and separately stated at the time of sale is not part of the purchase price
- (5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- (8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon

Price or Purchase Price shall not include.

(1) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof

(2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' usual course of business. This is not limited to exchanges in Colorado. Out of state trade-ins are an allowable adjustment to the purchase price

(3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales

44. "Private Communications Services" means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations

45. "Prosthetic Devices for Animals" means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function, is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

46. "Prosthetic Devices for Humans" means any artificial limb, part, device or appliance for human use which replaces a body part or aids or replaces a bodily function, is designed, manufactured, altered or adjusted to fit a particular patient, and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include but are not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

47. "Purchase" or "Sale" means the acquisition for any consideration by any person of tangible personal property, other taxable products, or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed. These terms include capital leases, installment and credit sales, and property and services acquired by.

(1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;

(2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services,

(3) Performance of taxable services; or

(4) Barter or exchange for other tangible personal property, other taxable products, or services.

The terms Purchase and Sale do not include

(1) A division of partnership assets among the partners according to their interests in the partnership,

(2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;

(3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets,

(4) A transfer of a partnership or limited liability company interest;

(5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets,

(6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

(8) The transfer of assets from a subsidiary company or companies which are owned at least eighty percent by the parent company to a parent company or to another subsidiary which is owned at least eighty percent by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

(9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent any transfer referred to in this paragraph (9) shall constitute a sale. For the purposes of this paragraph (9), a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock

48 "Recreation Services" means all services relating to athletic or entertainment participation events and/or activities including but not limited to

pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin operated amusement devices, video games and video club memberships

49. "Retail Marijuana" means that which is defined and regulated under the provisions of Chapter 5.11 of the Louisville Municipal Code.

50 "Retail Sales" means all sales except wholesale sales

51 "Retailer" means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. Retailer shall include but is not limited to, any: (1) Auctioneer, (2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of, or obtains such property or services sold from a dealer, distributor, supervisor or employer; (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes, (4) Retailer-Contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property.

52. "Retailer-Contractor" means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts

53. "Return" means any form prescribed by the City administration for computing and reporting a total tax liability

54. "Sales Tax" means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Code

55 "Security System Services" means electronic alarm and/or monitoring services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services

56. "Software Program" means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g. a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance Software program includes: (1) Custom software program, which is a software program prepared to the special order or specifications of a single customer; (2) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as "canned," "off-the-shelf ("COTS")," "mass produced" or "standardized," (3) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user, and (4) The generic term "software," "software application," as well as "updates," "upgrades," "patches," "user exits," and any items which add or extend functionality to existing software programs

57. "Software as a Service" means software that is rented, leased or subscribed to from a provider and used at the consumer's location, including but not limited to applications, systems, or programs

58. "Software License Fee" means a fee charged for the right to use, access, or maintain software programs

59. "Software Maintenance Agreement" means an agreement, typically with a software provider, that may include (1) provisions to maintain the right to use the software; (2) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software; or (3) technical support.

60. "Special Fuel" means kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles upon the public highways. The term does not include fuel used for the propulsion or drawing of aircraft, railroad cars or railroad locomotives

61. "Storage" means any keeping or retention of, or exercise of dominion or control over, or possession of for any length of time, tangible personal property not while in transit but on a stand still basis for future use when leased, rented or purchased at retail from sources either within or without the city from any person or vendor

62 "Storage Facility" means any indoor or outdoor area, structure, warehouse, or unit, whether mobile or immobile, which is ordinarily used to store tangible personal property. Storage facility shall not include kennels, lockers, mobile home pads, safe deposit boxes, or reservoirs

63 "Tangible Personal Property" means personal property that can be one or more of the following seen, weighed, measured, felt, touched, stored, transported, exchanged, or that is in any other manner perceptible to the senses

64. "Tax" means the sales tax due from a retailer or the use tax due from a consumer or the sum of both due from a retailer who also consumes

65 "Taxpayer" means any person obligated to collect and/or pay tax under the terms of this Code

66 "Telecommunications Service" means the service of which the object is the transmission of any two-way interactive electronic or electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), or any combinations of such media, including any form of mobile two-way communication.

67. "Therapeutic Device" means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

68. "Toll Free Telecommunications Service" means a Telecommunications Service that allows a caller to dial a number without incurring an additional charge for the call.

69 "Use" means the exercise, for any length of time by any person within the City of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer. "Use" also includes the withdrawal of items from inventory for consumption

70. "Use Tax" means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

71. "Wholesale Sales" means a sale by wholesalers to retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by Wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be Retail Sales and shall be subject to the provisions of this chapter.

72 "Wholesaler" means any person doing an organized wholesale or jobbing business and selling to Retailers, jobbers, dealers, or other Wholesalers, for the purpose of resale, and not for storage, use, consumption, or distribution.

Sec. 3.20.040. - Sales tax defined.

Sales tax means the tax that is collected or required to be collected and remitted by a retailer on sales taxed under this Code.

Sec. 3.20.050. - Use tax defined.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

Sec. 3.20.060. - Statute of limitations.

A Assessments, collections and liens The taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this chapter shall not be assessed nor shall any notice of lien be filed, distraint warrant issued, suit for collection be instituted, or any other action taken to collect the same be commenced, more than three years after the date on which the tax was or is payable In addition, no lien shall continue after such period, except for taxes assessed before the expiration of such period, in which case such lien shall continue for only one year after the filing of notice thereof.

B. The use or consumption of tangible personal property which occurs more than three years after the most recent purchase of such property is exempt from taxation, if within the three years, the property has been significantly used within the State of Colorado for the principal purpose for which it was purchased.

C. Tolling of statute of limitations The commencement of collection proceedings, including the mailing of a notice of audit, shall toll the running of the statute of limitations In the case of mailing of a notice of audit, any such audit shall be diligently pursued by the city. For purposes of this section, "toll" is defined as an interruption of the running or continuation of the statute of limitations In the case of a coordinated audit of any licensed taxpayer in this city, the first notice of an intended audit by any municipality that prompts the taxpayer's request for a coordinated audit shall toll the city's statute of limitations

D False and fraudulent returns: In the case of a false or fraudulent return with intent to evade tax, the tax together with interest and penalties thereon, may be assessed, or proceedings for the collection of such tax may be begun, at any time

E. Extensions. Before the expiration of such period of limitation, the taxpayer and the finance director may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing made before the expiration of the previously agreed upon time

F. Failure to file a return. In the case of failure to file a return, the tax, with interest and penalties thereon, may be assessed and collected at any time

Sec. 3.20.210. - Property and services taxed.

The sales tax is imposed upon the property and services as set forth in this section; provided, however, that no such tax is shall be charged on any sale of \$0.17 or less

A. Auctions. On the price paid by the purchaser of tangible personal property

B. Automotive Vehicles (Low Emitting Power Sources and Parts) The sales tax is imposed upon the sales of low-emitting Automotive Vehicles, power sources, or parts used for converting such power sources

C Automotive Vehicles (Resident) On the price paid or charged on the sale, lease-purchase, or rental for use or storage of an Automotive Vehicle to a resident of the City when required under the provisions of Title 42 of the Colorado Revised Statutes to be registered at an address inside the City. The county clerk of the county in which the registration occurs is authorized to collect such tax for the City prior to, or at the time, of registration.

D Charitable Organization Sales. The tax is imposed upon all sales and occasional sales of tangible personal property by a Charitable Organization

E. Coin Operated Device On the price paid or charged for the tangible personal property dispensed by a coin operated device, but the tax shall not apply to pay telephones and other coin operated devices that do not dispense tangible personal property. The sales tax is imposed upon the price paid or charged by the owner/lessee of the coin operated device for articles of tangible personal property that are to be subsequently sold in those coin operated devices. The sales tax shall be collected and remitted by the coin operated device owner or lessee for the retail sale of tangible personal property. The sales tax may be included in the retail price of the individual item sold at retail through the coin operated device. The operator, owner or person selling tangible personal property by coin operated devices shall be liable additionally for the sales and use tax on the purchase or use of the Coin Operated Devices and on any subsequent lease, rental or sale thereof on the full lease, rental or sale price

F Combined Personal Property Rentals with Operator Service On the price paid or charged for the right of possession or use of tangible personal property granted under lease, hire, or rental contract with an operator, regardless that at all times such rental property remains in the possession of the operator providing the rental service. If the charge for an operator of the property is not separately stated on the rental invoice, the total invoice amount is taxable. If the operator charge is separately stated, only the property rental charge is subject to city tax

G Community Organization Sales The tax is imposed upon all sales and occasional sales of tangible personal property by a Community Organization.

H Construction Equipment The tax is imposed on the purchase price paid or charged whether purchased, leased or rented from sources inside or outside the City.

I Construction Materials On the purchase price paid or charged within the City which are used for the improvement of any building, dwelling, other structure, or realty within or without the city which improvement does not require a building permit pursuant to City ordinance or code

J Cover Charge. On the charges included as part of the amount paid for food and drink.

K Digital Product On the purchase price paid or charged whether purchased, leased or rented from sources inside or outside the City.

L Food for Home Consumption and Other Food and Drink. The sales tax is imposed upon the amount paid for all sales and purchases of food for home consumption and food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, supermarkets, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities or any other place at which meals or food are regularly sold or are required by law to have foods or meals available for sale.

Cover charges shall be included as part of the amount paid for such food or drink. Any mandatory service or service-related charge, whether described as such or as a tip, gratuity, or otherwise, shall be included as part of the purchase price paid for such meals unless the full amount of the charge is passed on to the employees of the food service establishment who have provided direct service to each person paying the charge, and if all federal and state income and other applicable taxes due on such charge have been withheld by the food service establishment and paid to the appropriate government.

Any retailer selling malt, vinous or spirituous liquors by the drink may include in the sales price the tax levied under this chapter.

Meals provided to employees of the places mentioned in this subsection at no charge or at a reduced charge and which are considered as part of their salary, wages, or income shall be exempt from sales tax.

M Freight or Delivery (Not Separately Stated). On the purchase price paid or charged for freight and delivery services or any charges included in the price of the property being delivered; but not including any charges billed separately or included as a separate charge on the vendor's invoice.

N Garage Sales. If conducted more than three times a year.

O Gas and Electric Services (Commercial and Residential Use). The sales tax is imposed upon the amount paid or charged for gas, steam, heat and electric service, whether furnished by municipal, public, or private corporations or enterprises, for commercial or residential consumption and not for resale. For the purposes of this subsection, "gas" includes natural, manufactured, and liquefied petroleum gas. Tax is also imposed on all industrial users for the non-exempt portion of such gas and electric services used for lighting, offices, space heating, or other similar non-exempt, non-manufacturing uses.

P. Internet Subscription Service. On the purchase price paid or charged whether purchased, leased, or rented from sources inside or outside the City.

Q Labor (Not Separately Stated). The charge for labor when sold with tangible personal property, when not separately stated on the invoice, and when not separable from the tangible personal property sold. The charge for manufacturing, fabrication or other processing labor is taxable.

R Linen Services. On the purchase price paid or charged for such services whether purchased, leased, or rented from sources inside or outside the City.

S Lodging. The sales tax is imposed on the entire amount charged to any person on the transaction of furnishing rooms or accommodations by any person to a person who, for a consideration uses, possesses, or has the right to use or possess any room in a hotel, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, under any concession, permit, right of access, license to use, or other agreement, or otherwise.

T. Machinery. The sales tax is imposed upon the purchase price paid or charged whether purchased, leased or rented from sources inside or outside the City, for machinery or parts thereof, to be used in the city directly and predominantly in manufacturing tangible personal property, for sale or profit.

For purposes of this subsection, direct use in manufacturing is deemed to begin for items normally manufactured from inventoried raw material at the point at which raw material is moved from plant inventory on a contiguous plant site and to end at a point at which manufacturing has altered the raw material to its completed form, including packaging, if required. Machinery used during the manufacturing process to move material from one direct production step to another in a continuous flow and machinery used in testing during the manufacturing process is deemed to be directly used in manufacturing

U. Maintenance Services Agreements (Included as Part of Purchase Price). On the purchase price paid or charged for warranty or maintenance services and contracts relating to tangible personal property when such services are included as part of the purchase price.

V. Manufactured Home. On 52% of the purchase price from the seller to the end user

W. Medical Marijuana

X. Medical Supplies (Other). On the purchase price paid for items purchased for use by medical and dental practitioners or medical facilities in providing their services even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

Y Modular Home. On 52% of the purchase price from the seller to the end user.

Z Prefabricated Goods and Materials. On the purchase price of the complete manufactured unit and all such goods or materials delivered into and used in the City, including all raw materials, labor, overhead, and profit

AA. Preprinted Newspaper Supplements.

BB. Rental or Lease Inventory. A sales tax is due upon the rental or leasing of tangible personal property purchased exclusively for rental or leasing inventory, regardless of whether a sales or use tax has been paid upon a previous purchase of the property.

CC Retail Marijuana. On the purchase price paid or charged for retail marijuana as defined in Chapter 5.11 of the Louisville Municipal Code.

DD. Security Systems Services: On the purchase price paid or charged for security system services, including monitoring, whether purchased, leased or rented from sources inside or outside the City

EE. Software Programs. Except the tax shall not apply to special order custom software programs developed for a single customer and billed to the customer on an hourly labor basis.

FF Software as a Service.

GG. Software License Fee

HH. Software Maintenance Agreement: Except the tax shall not apply to technical support when separately stated.

II Tangible Personal Property: The tax is imposed upon the purchase price paid or charged upon all sales, rentals, leases and purchases of tangible personal property as specified in this chapter

(1) Whether or not such property has been included in a previous taxable transaction;

(2) When purchased for use without payment of the sales tax and used, stored, or consumed inside the City in conjunction with the rendering of a service;

(3) When purchased at wholesale and subsequently used by the taxpayer, either personally or in the operation of a business.

JJ. Telecommunications Equipment The tax is imposed upon the purchase price paid or charged upon all sales, rentals, leases and purchases of telecommunications equipment, provided however that in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a consumer to enter into or continue a contract for telecommunication services that are taxable pursuant to this chapter, the "purchase price" means and shall be limited to the monetary amount paid by the consumer and shall not reflect any sales commission or other compensation received by the retailer as a result of the consumer entering into or continuing a contract for such telecommunication services. Nothing in this subsection shall be construed to define "purchase price" as it applies to the amount a retailer collects from a consumer who defaults or terminates a contract for telecommunication services

KK Telecommunications Service The sales tax is imposed upon all telecommunication services for all intrastate telecommunications service and mobile communications services as provided in this chapter, originating from or received on telecommunication equipment in the City if the charge for the service is billed to an apparatus, telephone or account in this City, to a customer location in the City, or to a person residing in the City without regard to where the bill for such services is actually received Taxable telecommunications services do not include interstate services or separately stated non-transmission services which constitute computer processing applications used to act on the information to be transmitted

Sec. 3.20.220. - Exemptions from sales tax.

The transactions set forth in this section are exempt from the imposition of tax levied by section 3 20 200 The burden of proving that any taxpayer is exempt from collecting or paying sales tax shall be on the taxpayer.

A. Agricultural Commodities As defined in C.R.S. § 35-28-104(1) and also including sugar beets, timber and timber products, oats, malting barley, barley, hops, rice, milo, and any other feed grain

B. Automotive Vehicles (Nonresident): Sold to nonresidents of the City for registration outside the City It shall be unlawful to register an automotive vehicle outside the City with intent to avoid tax liability imposed by this chapter.

C. Carrier Access Services Carrier access services, interstate or international WATS/800 service and interstate private communications services

D. Charitable Organization (Sales To/Purchases By) All direct sales to or purchases by charitable organizations in the conduct of their regular charitable functions and activities when billed to and paid for by the charitable organization This includes all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets, and other public works owned or used by charitable organizations in the conduct of their regular charitable functions and activities

E. Cigarettes

F. Coins

G. Coin Operated Devices that do not dispense tangible personal property, including pay telephones

H. Commercial Packaging Materials that meet all of the following conditions:

(a) Are used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to label or contain the finished product;

(b) Are transferred by said person along with and a part of the finished product to the purchaser; and

(c) Are not returnable to said person for reuse.

I. Commercial Shipping Materials that are not returnable to said person for reuse and are separately stated

J. Community Organization (Sales To/Purchases By) All direct sales to or purchases by community organizations in the conduct of their regular charitable functions and activities when billed to and paid for by the community organization

K. Construction Materials: The sale of construction materials in the City, if such materials are picked up by the purchaser, and if the purchaser of such materials presents to the retailer a building permit or other documentation

acceptable to the City, evidencing that a local use tax on such materials has been paid or is required to be paid.

L Farm Close-out Sales.

M Food for Home Consumption (Purchased with Food Stamps): Food that is purchased by the medium of exchange commonly known as "food stamps"; and the sale of food as defined in 7 U S C 2012(k), as such section now exists or is hereafter amended, that is purchased with funds provided by the special supplemental food program for women, infants, and children authorized by 7 U S C sec. 2012(t) as such section now exists or is hereafter amended.

N Freight and Delivery Charges when separately stated on the purchaser's invoice

O. Garage Sales, provided that such sales are conducted no more than three times a year

P Gas and Electric Services (Industrial Use): For industrial use only, the purchases of electricity, coal, gas, fuel oil, steam, or coke for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone, radio communications, street and railroad transportation services and all industrial uses, except that electricity, gas, coal, fuel oil or coke used for lighting or space heating in these operations shall not be exempt

Q Internet Access Services

R. Labor (Separately Stated) The charge for labor when sold with tangible personal property, if such labor is stated separately on the invoice and is separable from the tangible personal property sold, except that manufacturing or fabricating or other processing labor is never exempt.

S Livestock, Livestock Feed and Seeds. The sale of cattle, sheep, lambs, poultry, fish for stock purposes, swine and goats, and the sale of mares and stallions for breeding purposes All sales of feed for livestock or poultry and all sales of seeds to farmers, ranchers, truck farmers, florists and horticulturists who sell the crops resulting from the propagation of such seeds or use such crops as feed for livestock or poultry.

T. Lodging (30 or more days): Accommodations that are rented under a written agreement to a single entity for a period of 30 consecutive days or more

U. Maintenance Services and Agreements (Optional/Subsequently Provided): When such services or warranties are optional to the purchaser and when any parts or supplies or taxable services subsequently provided to the purchaser are properly taxed, such contracts or warranties are not taxable at the time of purchase.

V. Manufacturing or Compounding Raw Materials: Sales of tangible personal property to a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance or commodity

1 Which tangible personal property is actually and factually transformed by the process of manufacturing or compounding, and

2 Which tangible personal property becomes by the manufacturing or compounding process, a necessary and recognizable ingredient, component and constituent part of the finished product; and

3. Whose physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer

With regard to the sale of tangible personal property sold to a person engaged in the business of manufacturing or compounding for sale, profit or use of food products, such tangible personal property is exempt from taxation under this section when

1 It is intended that such property become an integral or constituent part of a food product which is intended to be sold ultimately at retail for human consumption, or

11 Such property, whether or not it becomes an integral or constituent part of a food product, is a chemical, solvent, agent, mold skin casing, or other material, is used for the purpose of producing or inducing a chemical or physical change in a food product or is used for the purpose of placing a food product in a more marketable condition and is directly utilized and consumed, dissipated, or destroyed, to the extent it is rendered unfit for further use, in the processing of a food product which is intended to be sold ultimately at retail for human consumption

W. Medical Supplies.

X. Motor Fuel.

Y Newspapers Legally defined by C R.S § 24-70-102

Z Prescription Drugs for Animals

AA. Prescription Drugs for Humans Prescription drugs excludes medical marijuana

BB Private Communications Services

CC Prosthetic Devices for Animals

DD Prosthetic Devices for Humans.

EE Recreation Services

FF. Rental or Lease Inventory. Tangible personal property purchased exclusively for rental or leasing inventory, provided that such property is not otherwise used for the purchaser's general business or personal use.

GG. Sales to Public Utility Company or Railroad Tangible personal property sold to a public utility company or railroad doing business both inside and outside the city, for use in its business operations outside the city, even though delivery thereof is made inside the city.

HH. Software Program (Custom) Custom software programs prepared to the special order or specifications of a single customer when billed on an hourly labor basis Labor which is included as part of a modification or enhancement is not taxable if such charges are separately stated

II. Software Maintenance Agreement (Separately Stated) The technical support portion of an agreement when charges are separately stated

JJ. Special Fuel

KK. Therapeutic Device. If such device, appliance, or related accessory has a retail value of more than \$100.00, and is sold in accordance with a written recommendation from a licensed practitioner

LL Toll Free Telecommunications Service

MM United States Government All direct sales to the U.S. government, the State of Colorado, its departments or institutions, and the political subdivisions thereof in their governmental capacities only, when billed to and paid for by the governmental entity.

NN Wholesale Sales

The list of exemptions shall not be increased by implication or similarity

Sec. 3.20.305. - Property and services taxed.

A The tax levied by section 3 20.300 is imposed upon and shall apply, without limitation, to the purchase price of the following property and services, if no sales tax thereon has been paid.

1 Automotive Vehicle Upon the privilege of storing, using or consuming within the city, any motor and other automotive vehicles, purchased at retail on which registration is required

2. Construction Equipment, Mobile Machinery and Self-Propelled Construction Equipment. Use tax shall be due on construction equipment, mobile machinery and self-propelled construction equipment used inside the City for contracts entered into on or after January 1, 2011

a The taxpayer shall identify construction equipment, mobile machinery and self-propelled construction equipment used inside the City as follows:

1 Prior to or on the date the equipment or machinery is located inside the City, the taxpayer shall file with the City an equipment or machinery declaration on a form provided by the City Such declaration shall state the dates on which the taxpayer anticipates the equipment or machinery will be located inside and removed from the boundaries of the City, shall include a description of each such anticipated piece of equipment or

machinery, shall state the actual or anticipated price of each such anticipated piece of equipment or machinery, and shall include such other information as reasonably deemed necessary by the City

ii The taxpayer shall file with the City an amended equipment or declaration reflecting any changes in the information contained in any previous declaration no less than once every 90 days after the equipment or machinery is brought inside the City or, for equipment or machinery which is brought inside the City for a project of less than 90 days duration, such amended declaration must be filed no later than ten days after substantial completion of the project. Amended declarations for all other projects must be filed at least once every 90 days after the equipment or machinery is brought inside the City.

iii The taxpayer need not declare any equipment or machinery for which the purchase price was less than \$2,500.00. Such equipment or machinery shall be presumed to have been purchased in a municipality having a sales or use tax at a rate at least equal to the rate established pursuant to this chapter and such tax shall be presumed to have been paid to that municipality.

b Construction equipment, mobile machinery and self-propelled construction equipment located inside the City for 30 consecutive days or less for which a declaration is properly filed, shall be subject to the tax in an amount calculated as follows: 1/12th of the price of the equipment or machinery at the time it was purchased shall be multiplied by the rate established in this chapter.

c Construction equipment, mobile machinery and self-propelled construction equipment located inside the City for more than 30 consecutive days, or equipment or machinery for which a declaration has not been properly filed, shall be subject to use tax on the full price of such equipment or machinery.

3. Construction Materials. Upon the privilege of using or consuming within the City, construction materials purchased for use in connection with new residential construction or new residential building projects, commercial, industrial or other nonresidential construction or building projects, whether purchased, leased or rented from sources inside or outside the City.

4. Digital Product. On the purchase price paid or charged whether purchased, leased or rented from sources inside or outside the City.

5. Inception of Business; Initial Use Tax. Any person who purchases or establishes a business inside the City shall file an initial use tax return and pay the tax levied by section 3.20 300 as follows:

a Existing Businesses: Use tax shall be due on tangible personal property, except inventory held for lease, rental or resale, which

is acquired with the purchase of a business. The tax shall be based on the price of such property as recorded in the bill of sale or agreement and constituting a part of the total transaction at the time of the sale or transfer, provided the valuation is as great as or greater than the fair market value of such property. Where the transfer of ownership is a lump sum transaction, the use tax shall be due on the book value established by the purchaser for income tax depreciation purposes, or fair market value if no determination has been made. When a business is taken over in return for the assumption of outstanding indebtedness owed by former owners, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser. Such tax shall be reported on an initial use tax return.

b. New Businesses. Use tax shall be due on the price of all tangible personal property, except inventory held for lease, rental or resale, which is purchased for use inside the City. Such tax shall be reported on the initial use tax return.

c. Cessation of Business. Every person engaged in business in the city who quits doing business in the city shall file a final return. The reporting period for such return shall end on the last day of business in the City.

d. Sale or Transfer of Business. In all cases where any of the assets of any new business are within the city, payment of sales or use tax based on the bill of sale is required on transfer of title or possession, or both, of the tangible personal property taxable in this chapter, whether involving a retail establishment or any other type of business enterprise.

6. Internet Subscription Service. On the purchase price paid or charged whether purchased, leased, or rented from sources inside or outside the City.

7. Machinery.

8. Maintenance Services Agreements (Included as Part of Purchase Price). On the purchase price paid or charged for warranty or maintenance services and contracts relating to tangible personal property when such services are included as part of the purchase price.

9. Meals. The tax shall be due upon the cost of food withdrawn from inventory for meals provided at no charge or at a reduced charge to employees as a form of compensation.

10. Medical Supplies (Other). The tax shall be paid on medical supplies purchased for use by medical and dental practitioners or medical facilities in providing their services, even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

11. Preprinted Newspaper Supplements.

- 12 Software Programs and Software
- 13 Software as a Service
14. Software License Fee
- 15 Software Maintenance Agreement.

16 Storage Facility The tax shall be paid on the periodic charge for the rental of indoor or outdoor storage space ordinarily used to store tangible personal property in the City.

17 Tangible Personal Property Upon the price of tangible personal property stored, used or consumed, or withdrawn from inventory for business or personal use within the City on which the City sales tax or other lawfully imposed tax has not been charged by the vendor or paid by the consumer.

18. Telecommunications Equipment In the case of the sale or transfer of telecommunication equipment as an inducement to a consumer to enter into or continue a contract for telecommunications services

Sec. 3.20.310. - Exemptions from use tax.

A. The transactions set forth in this section are exempt from the imposition of the tax levied by section 3 20 300 The burden of proving that any taxpayer is exempt from collecting or paying sales tax shall be on the taxpayer.

1. Automotive Vehicles (Nonresidents) Sold to nonresidents of the City for registration outside the City, to the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the City, and if the non-resident purchased the automotive vehicle outside of the City, for use outside the City, and actually so used it for a substantial and primary purpose for which it was acquired and he lawfully registered, titled, and licensed said motor vehicle outside of City. It shall be unlawful to register an automotive vehicle outside the City with intent to avoid tax liability imposed by this chapter

2 Charitable Organizations and Community Organizations: The storage, use, or consumption of tangible personal property by non-profit Charitable and Community Organizations in the conduct of their regular functions.

3 Maintenance Services and Agreements (Optional/Subsequently Provided): When such services or warranties are optional to the purchaser and when any parts or supplies or taxable services subsequently provided to the purchaser are properly taxed, such contracts or warranties are not taxable at the time of purchase.

4 Medical Supplies.

5. Sales Taxed Items The storage, use, or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the City.

6. Software Maintenance Agreement (Separately Stated) The technical support portion of an agreement when charges are separately stated

7 Software Program (Custom). Custom software programs prepared to the special order or specifications of a single customer when billed on an hourly labor basis. Labor which is included as part of a modification or enhancement is not taxable if such charges are separately stated

8. Storage. The storage of construction and building materials

9 Temporary Nonresident Use. The storage, use, or consumption of tangible personal property brought into the City by a nonresident thereof for his own storage, use, or consumption while temporarily within the City, provided, however, that this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this City by a nonresident to be used in the conduct of a business in the City

10 United States Government: The storage, use, or consumption of tangible personal property by the United States government, or the State of Colorado, or its institutions, or its political subdivisions in their governmental capacities only and the conduct of their regular functions

11 Wholesale Transactions The storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label, or the furnished shipping case thereof.

B The list of exemptions shall not be increased by implication or similarity.

Sec. 3.20.330. - Construction and building materials; collection, administration, and enforcement.

A. For construction and building materials, the use tax imposed by this chapter shall be collected in full prior to issuance of a building permit. The use tax shall be collected by the City of Louisville Building Department, as the designee of the finance director, or by another designee of the director

B. For purposes of determining the use tax for construction and building materials, 50 percent of the estimated general contract costs and 50 percent of the estimated mechanical contract costs shall be deemed to be the purchase price of such construction and building materials

C. Municipal Projects: No use tax shall be due on the purchase of construction materials used in construction projects undertaken and managed directly by the City.

Sec. 3.20.408. - Deductions and credits; vendor's fee.

A. Bad debts Taxes paid on gross taxable sales represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax provided in this chapter, but if any such accounts are thereafter collected by the taxpayer, then a tax shall be paid upon the amounts so collected

B Returned goods: Taxes paid on the amount equal to the sale price of property returned by the consumer when the full sale price including the tax levied is refunded, either in cash or by credit, may be credited upon a subsequent payment of the tax provided in this chapter, but a tax shall be paid on any resale of such goods

C Sales for Outside Delivery A credit shall be granted against the sales of tangible personal property where all of the following conditions are met:

1 The sales are to those who reside or do business outside the city and such articles delivered are used outside the city

2. The articles purchased are delivered to the purchaser outside the city by common, contract or commercial carrier employed by the seller to effect delivery, or by the seller's vehicles or by mail, but at all times at the seller's expense

3. The seller retains full ownership and liability for all articles being delivered to the destination outside the city

D Tax Paid to Another City A credit shall be granted against the sales or use tax owed if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city or town equal to, or in excess of, the sales or use tax due under the provisions of this chapter. The credit shall be equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser to such other statutory or home rule city or town. The amount of the credit shall not exceed the amount of the sales or use tax required to be paid pursuant to this chapter.

E Vendor's fee Effective for all returns due on or after February 1, 2010, the vendor shall not withhold any vendor's fee to cover the vendor's expense in the collection and remittance of said tax

3.20.520. Administrative hearings

A *Requests for hearing*

1. Notices of assessment An appeal of a notice of determination, assessment and demand for payment issued to a retailer or taxpayer for failure to file a return, underpayment of tax owed or as a result of an audit shall be submitted in writing to the finance director within 30 days from the date of the notice of determination, assessment and demand for payment. Any such appeal shall identify the amount of tax disputed and the basis for the appeal

2. Denial of refunds An appeal of the denial of a refund shall be submitted in writing to the finance director within 30 days from the date of the denial of refund and shall identify the amount of the refund requested and the basis for the appeal

B *Contents of petition* Said petition shall be under oath of the taxpayer and shall set forth

- 1 The reason why such hearing should be granted,
2. The amount of tax disputed,
- 3 Any requested changes;
- 4 A complete description of documents and tax periods pertaining to the hearing, and
- 5 The name, address, telephone number and sales or use tax license number of said taxpayer.

C *Informal meeting*

1 If upon receipt of an appeal, the finance director is of the opinion that the issues involved in such appeal may be resolved administratively, the finance director may conduct an informal meeting with the taxpayer.

2. If the issues are satisfactorily resolved at an informal meeting, the remaining total tax liability, if any, shall be paid on or before ten (10) days after the date of the notification of the amount due

3 If the informal meeting does not resolve the appeal, a hearing shall be set as provided in subsection E.

D *Time and place of hearing* The finance director shall notify the taxpayer in writing of the time and place for such hearing ten days prior thereto. In all cases, the hearing shall be held in Louisville, Colorado

E. *Conduct of hearing* The finance director or the director's designee may conduct the hearing. The hearing shall be informal and no transcript, rules or evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the city may submit a brief. The city shall hold such hearing and issue the final decision within 90 days after the city's receipt of the taxpayer's written request therefor, except the city may extend such period if a delay in

holding a hearing or issuing a decision thereon was occasioned by the taxpayer, but, in any such event, the city shall hold such hearing and issue the decision thereon within 180 days of the taxpayer's request in writing therefor

F *Tax under question may be adjusted* Based on the evidence presented at any informal meeting or hearing, or filed in support of the taxpayer's contentions at any informal meeting hearing, the finance director may modify or abate in full the tax, penalty and/or interest questioned at the informal meeting or hearing, or may approve a refund.

G *Hearing determination notices* Upon approval or rejection, in whole or in part, of the claim for refund or upon the finding by the finance director that an assessment in whole or in part has been made properly or improperly against the taxpayer, the finance director shall mail a hearing determination notice to the taxpayer setting forth the amount of claim for refund allowed or denied or the amount of deficiency assessment of taxes found due, stating therein the grounds for allowance or rejection of the petition, in whole or in part. Every decision shall be in writing and notice thereof shall be mailed to the taxpayer within 45 days following the hearing, but in any event within the time limits prescribed in subsection E of this section

Section 2. Section 3.22 020 A 3 the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined; words to be deleted are ~~stricken through~~)

Sec. 3 22.020. - Definitions.

A.3. *Tax* means the tax paid or payable by the taxpayer or the aggregate amount of taxes collected or to be collected and remitted to the city by the vendor during the period for which the vendor is required to collect and remit the tax upon lodging under this chapter

Section 3. Section 3.22 050 of the Louisville Municipal Code is hereby amended to read as follows (words to be added are underlined, words to be deleted are ~~stricken through~~):

Sec 3.22.050. – Advertisement of assumption or absorption of tax prohibited; taxpayer responsibilities.

A. The tax imposed by this chapter shall be in addition to all other taxes imposed by law, except as otherwise provided in this chapter.

B. It shall be unlawful for any lodging vendor to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the lodging vendor or that it will not be added to the purchase price of lodging provided or, if added, that such tax or any part thereof will be refunded

C. Each vendor shall add the tax imposed to the sale price or charge, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the vendor until paid, and shall be recoverable at law in the same manner as other debts.

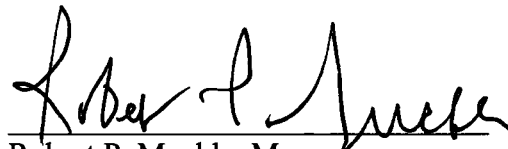
D. If any vendor during any reporting period shall collect as lodging tax an amount in excess of the amount of the lodging tax imposed under this chapter, the vendor shall remit to the finance director the full amount of the lodging tax imposed under this chapter and also all excess amounts

Section 4 If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions

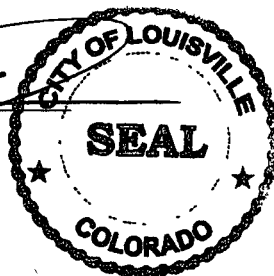
Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED this 6th day of June, 2017.**


Robert P. Muckle, Mayor

ATTEST:


Meredyth Muth, City Clerk



APPROVED AS TO FORM

Melinda Culley

Light | Kelly, P C.
City Attorney

**PASSED AND ADOPTED ON SECOND AND FINAL READING this 13th day of
June, 2017.**

Robert P. Muckle
Robert P Muckle, Mayor

ATTEST

Meredyth Muth
Meredyth Muth, City Clerk

